

California Regional Water Quality Control Board
Santa Ana Region

August 22, 2003

ITEM: 15

SUBJECT: Stormwater Quality Standards Task Force Agreement

DISCUSSION:

At the July 1, 2003 meeting, the Regional Board considered an amendment to the Agreement forming the Task Force whereby the Board would become a signatory to the Agreement and a voting advisory member of the Task Force. The Board rejected this approach, based on the concern that the Board's participation in the Task Force as a voting member would be perceived as biasing the conduct and outcome of the Task Force studies.

To address this concern, the Board's legal counsel and staff propose language in a revised amendment (Amendment No. 1) to the Agreement (Attachments 1 and 2, respectively), and in tentative Resolution No. R8-2003-0095. Pursuant to the language in the revised Amendment No. 1, the Board would be added as a party to the Agreement but would have no voting rights, except as to further amendments to the Agreement. Tentative Resolution No. R8-2003-0095 would delegate to the Executive Officer all functions under the Agreement and Amendment No. 1 and the authority to consider further proposed amendments to the Agreement.

The revised Amendment No. 1 also specifies that the Board reserves the right to withdraw from the Task Force upon 30 days written notice. The Amendment continues to contain explicit language that the Regional Board would have no financial obligation to the Task Force work.

As discussed in the July 1, 2003 staff report, it is important to note that signing the Agreement would not commit the Regional Board to implement the results and recommendations of the Task Force studies through Basin Plan amendments. Rather, the Board's signature would denote commitment to meaningful participation in the process, and to the consideration and implementation of changes to the Basin Plan, where such changes are found appropriate and justified.

Staff believes that the revised language in the Amendment (Attachment 1) and the delegation of authority provided in Resolution No. R8-2003-0095 address the Board's concerns with respect to becoming a signatory to the Agreement.

RECOMMENDATION:

Staff recommends that the Board adopt Resolution No. R8-2003-0095, approving Amendment No. 1 and authorizing the Board's Chair to sign Task Force Agreement on behalf of the Board. Further, adoption of the Resolution would delegate to the Executive Officer all functions under the Agreement and Amendment No. 1 and the authority to consider further proposed amendments to the Agreement.

California Regional Water Quality Control Board
Santa Ana Region

Tentative

RESOLUTION NO. R8-2003-0095

Resolution Authorizing the Signature of the Stormwater Quality Standards Task Force Agreement and Delegating Authority to the Executive Officer to Execute All Functions under the Agreement and Amendment No. 1 and the Authority to Consider Further Proposed Amendments to the Agreement

WHEREAS, the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

1. In or about May 2003, the County of Orange, the San Bernardino County Flood Control District, the Riverside County Flood Control and Water Conservation District and the Santa Ana Watershed Project Authority entered into an agreement to form the Stormwater Quality Standards Task Force (Agreement). The purpose of the Task Force is to assist the Regional Board in work related to the triennial review of the Basin Plan.
2. Pursuant to the Agreement, the Regional Board was an Advisory Member but not a signatory.
3. The Task Force has requested that the Regional Board signal its commitment to the Task Force effort by becoming a signatory to the Agreement. Amendment No. 1 to the Agreement provides for the Board's signature to the Agreement, whereupon the Regional Board would be added as a party to the Agreement. The Regional Board would fully participate in the Task Force meetings, but would have no voting rights, except as to further amendments to the Agreement. Further, the Regional Board would have no obligation to make any financial contributions, nor any financial obligations under the Agreement.
4. It is appropriate to delegate to the Executive Officer authority to execute all functions under the Agreement and Amendment No. 1 and the authority to consider further proposed amendments to the Agreement.
5. The Regional Board's signature to the Agreement neither connotes nor denotes a commitment by the Regional Board to implement the results and recommendations of the Task Force studies through Basin Plan amendments. Rather, the Board's signature denotes commitment to meaningful participation in the process, and to the consideration and implementation of changes to the Basin Plan, where such changes are found appropriate and justified.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board Chair is authorized to sign Amendment No. 1 to the Task Force Agreement, whereupon the Regional Board shall become a party to the Agreement, as provided in Amendment No. 1.

2. The Regional Board delegates to the Executive Officer all functions under the Agreement and Amendment No. 1 and the authority to consider further proposed amendments to the Agreement.
3. The Regional Board reserves the right to withdraw from the Task Force upon proper written notice to the Task Force, as provided in Amendment No. 1.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Santa Ana Region, on August 22, 2003.

Gerard J. Thibeault
Executive Officer

**AMENDMENT NO. 1 TO AGREEMENT TO FORM A TASK FORCE
FOR THE STORMWATER QUALITY STANDARDS STUDY**

THIS AMENDMENT NO. 1 TO THE AGREEMENT TO FORM A TASK FORCE FOR THE STORMWATER QUALITY STANDARDS STUDY is made and entered into this _____ day of _____, 2003, by and between:

County of Orange, a political subdivision of the State of California, hereinafter referred to as "ORANGE COUNTY",
And
San Bernardino County Flood Control District, hereinafter referred to as "SB FLOOD CONTROL",
And
Riverside County Flood Control and Water Conservation District, a political subdivision of the State of California, hereinafter referred to as "RIVERSIDE FLOOD CONTROL",
And
California Regional Water Quality Control Board, Santa Ana Region, hereinafter referred to as the "REGIONAL BOARD",
And
Santa Ana Watershed Project Authority, hereinafter referred to as "SAWPA".

ORANGE COUNTY, SB FLOOD CONTROL, and RIVERSIDE FLOOD CONTROL are hereinafter sometimes collectively or individually referred to as "MEMBER AGENCIES" or "MEMBER AGENCY" respectively.

RECITALS

WHEREAS, in or about May 2003 the MEMBER AGENCIES and SAWPA entered into an Agreement to Form a Task Force for the Stormwater Quality Standards Study ("AGREEMENT"), to which the REGIONAL BOARD was an Advisory Member but not a signatory; and

WHEREAS, the MEMBER AGENCIES, SAWPA and the REGIONAL BOARD intend that the REGIONAL BOARD shall be a party to the AGREEMENT and shall participate fully in the Task Force meetings, but that the REGIONAL BOARD shall have no voting rights, no obligation to make any financial contributions nor shall it have any financial obligations under the AGREEMENT.

NOW, THEREFORE, THE MEMBER AGENCIES, THE REGIONAL BOARD AND SAWPA MUTUALLY AGREE THAT THE AGREEMENT IS AMENDED AS FOLLOWS:

1. Regional Board as a Party to the AGREEMENT.

A. The REGIONAL BOARD is hereby added as a party to the AGREEMENT and shall fully participate in the Task Force meetings, but the REGIONAL BOARD shall have no voting rights, except as to further amendments to the agreement, nor any obligation to make any financial contributions, nor any financial obligations under the AGREEMENT.

B. The third sentence in Sub-Section 3 c, Advisory Members, of the AGREEMENT, which had provided for the appointment of the REGIONAL BOARD as an advisory member, is hereby deleted.

C. Amend Section 13 by adding the following at the end of the paragraph:

The Regional Board reserves the right to withdraw from the Task Force at anytime, upon thirty (30) days written notice to the Task Force and the Member Agencies.

2. Effective Date Of Amendment.

This Amendment shall become effective when it has been executed by all MEMBER AGENCIES, the REGIONAL BOARD, and SAWPA pursuant to authorization by each signatory's governing board. Except as modified by this AMENDMENT NO. 1, all other terms and conditions of the AGREEMENT shall remain unchanged. A copy of the executed AGREEMENT has been provided herewith to the REGIONAL BOARD.

3. Counterparts.

This AMENDMENT NO. 1 may be executed in original counterparts, which together shall constitute a single document.

IN WITNESS WHEREOF, the parties hereto have executed this AMENDMENT NO. 1 on the dates opposite their respective signatures.

COUNTY OF ORANGE, a political subdivision of the
State of California

Dated: _____

By _____
Chair of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

DARLENE J. BLOOM

APPROVED AS TO FORM

County Counsel

Clerk of the Board of Supervisors
County of Orange, California

By _____
Deputy

Dated: _____

SAN BERNARDINO COUNTY FLOOD CONTROL
DISTRICT

Dated: _____

By _____
DENNIS HANSBERGER
Chair of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

J. RENÉE BASTIAN

APPROVED AS TO FORM
ALAN K. MARKS
County Counsel

Clerk of the Board of Supervisors
San Bernardino County, California

By _____
Charles S. Scolastico
Deputy County Counsel

Dated: _____

RIVERSIDE COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT, a political
subdivision of the State of California

Dated: _____
WARREN D. WILLIAMS
General Manager – Chief Engineer

By _____
JAMES A. VENABLE, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

APPROVED AS TO FORM
WILLIAM C. KATZENSTEIN
County Counsel

NANCY ROMERO
Clerk of the Board of Supervisors
Riverside County Flood Control and Water
Conservation District, California

By _____
TIMOTHY J. DAVIS
Deputy County Counsel

Date: _____

CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, SANTA ANA REGION

Dated: _____

By _____
Chair

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

APPROVED AS TO FORM

Legal Counsel

Executive Director of the California Regional Water
Quality Control Board, Santa Ana Region,
California

By _____

Dated: _____

SANTA ANA WATERSHED PROJECT
AUTHORITY, a Joint Powers Authority of the State of
California

Dated: _____

By _____
Commission Chair

Secretary-Treasurer

APPROVED AS TO FORM

AKLUFİ AND WYSOCKI

By _____
DAVID L. WYSOCKI

Dated: _____